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## **DEPARTMENT OF HOMELAND SECURITY**

### **U.S. CUSTOMS AND BORDER PROTECTION**

#### **Expansion of Importer Self-Assessment Program to Include Qualified Importers of Focused Assessment Audits**

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security.

**ACTION:** General notice.

**SUMMARY:** This document announces changes to the Importer Self-Assessment (ISA) program and describes the requirements for participation in, and benefits under, the program. The ISA program allows participants an opportunity to assess their own compliance with U.S. Customs and Border Protection (CBP) laws and regulations rather than undergoing comprehensive CBP audits. This document announces that a company that has successfully undergone a CBP Focused Assessment (FA) audit may be eligible to transition into the ISA program without further CBP review within twelve (12) months from the date of the FA Report wherein Regulatory Audit, Office of International Trade, has determined that the company represents an acceptable risk to CBP, if the company also: is a U.S. or Canadian resident importer; obtains Customs-Trade Partnership Against Terrorism (C-TPAT) program membership; develops a risk-based self-testing plan; and agrees to meet all of the ISA program requirements. An Application Review Meeting, which is normally required for ISA applicants, will not be required for participants under this new policy.

**DATES:** The program modifications set forth in this document are effective [INSERT DATE OF PUBLICATION OF THIS DOCUMENT IN THE **FEDERAL REGISTER**].

**FOR FURTHER INFORMATION CONTACT:** John Leonard, Acting Executive Director, Trade Policy and Programs, Office of International Trade, at [tppb-isa@dhs.gov](mailto:tppb-isa@dhs.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

**Importer Self-Assessment Program and the Focused Assessment**

The Importer Self-Assessment (ISA) program is a joint government-business initiative designed to build cooperative relationships that strengthen trade compliance. It is based on the premise that companies with strong internal controls achieve the highest level of compliance with customs laws and regulations. On June 7, 2002, the former U.S. Customs Service (now U.S. Customs and Border Protection (CBP)) published a **Federal Register** (67 FR 41298) notice announcing the ISA program and describing the requirements for participation in, and benefits under, the program. For the most part, the requirements for participation in the ISA program remain as described in the 2002 Notice, except that the program has been expanded to accept Canadian as well as U.S. importers and participants must retain self-testing results for three (3) years.

Upon acceptance into the ISA program, the company will immediately begin to receive the following benefits:

- Entitled to receive entry summary trade data, including analysis support, from CBP.
- Consultation, guidance, and training by CBP if requested and as resources permit (for compliance, risk assessments, internal controls, CBP audit trails, etc.).
- Opportunity to apply for coverage of multiple business units.
- Removal from Regulatory Audit's audit pool established for Focused Assessment (FA).

However, companies may be subject to a single issue audit to address a specific concern.

- Receipt of a written notice from CBP if CBP becomes aware of an error in which there is an indication of a violation of 19 U.S.C. 1592 or 1593(a). CBP will allow thirty (30) days from the date of the notification for the company to assess and, if determined necessary, to file a prior disclosure pursuant to 19 CFR 162.74. This benefit does not apply if the matter is already the subject of an ongoing investigation or if fraud is involved.
- Consideration of the company's participation in the ISA program in the disposition of a case involving civil penalties or liquidated damages assessed against the company, although such participation does not preclude the issuance of a penalty or liquidated damages claim, or other enforcement action, if warranted.
- Assignment of a National Account Manager (NAM), who will ensure that issues, questions, and concerns are addressed in a timely fashion and are directed to the appropriate area. The NAM also helps coordinate the participant's activities, and provides oversight of the ISA account.
- Expedited cargo release.
- Expedited internal advice/consultation from Regulations & Rulings, Office of International Trade.
- Priority consideration for applications to participate in the Centers of Excellence and Expertise tests.
- Additional benefits may be tailored to industry needs.

Please note that this list reflects the changes that have been made to the benefits under the ISA program since the June 2002 **Federal Register** (67 FR 41298) notice publication.

The FA is a rigorous audit process conducted by Regulatory Audit, Office of

International Trade, to determine whether a company's import activities represent an acceptable risk to CBP through an assessment of the company's organizational structure and its internal controls over compliance with applicable customs laws and regulations.

### **Successful Focused Assessment to Importer Self-Assessment Program Transition**

The FA is a more rigorous and thorough method of examining a company's internal systems for compliance with customs laws and regulations than the ISA review process. Therefore, CBP has decided to provide companies that have successfully completed the FA an opportunity to transition directly into the ISA program within twelve (12) months of their FA audit report date, which indicates that the company successfully passed the audit. The FA audit report is provided to the company by mail from Regulatory Audit, Office of International Trade. This new policy creates efficiencies relative to the time, money, and resources involved with the normal ISA application and evaluation process.

CBP opens this opportunity to companies that have successfully undergone a FA audit only if the company also: is a U.S. or Canadian resident importer; obtains Customs-Trade Partnership Against Terrorism (C-TPAT) program membership (those companies that are not C-TPAT certified will need to request certification by applying on the C-TPAT Portal, <https://ctpat.cbp.dhs.gov>, and their C-TPAT applications will be reviewed in an expedited fashion, within 30-45 days of receipt, rather than the typical 90-day schedule); develops a written risk-based self-testing plan; completes the ISA Memorandum of Understanding (MOU) as noted in the ISA Handbook, posted on the web at [http://www.cbp.gov/linkhandler/cgov/trade/trade\\_programs/importer\\_self\\_assessment/isa\\_hb.ctt/isa\\_hb.pdf](http://www.cbp.gov/linkhandler/cgov/trade/trade_programs/importer_self_assessment/isa_hb.ctt/isa_hb.pdf); and agrees to meet all of the ISA program requirements identified in the **Federal Register** (67 FR 41298) notice dated June 7, 2002 and updated by this document.

Qualified companies will not need to undergo the Application Review Meeting (ARM) that is routinely scheduled for ISA applicants that undergo the normal ISA application evaluation process. CBP normally conducts an ARM to review an ISA applicant's corporate structure as it relates to customs-related work, its internal control processes, its entry processes from purchase order to payment for certain entries selected by the ISA team, and to discuss the scope and methodology of the self-testing plan developed by the company. Companies that would like to participate in the ISA program under this new policy will have already undergone a more rigorous review process under the FA audit and, therefore, will not need to participate in an ARM.

### **Application Process**

Any interested company that has successfully completed a FA in the twelve (12) months prior to the publication of this document may apply to transition into the ISA program. After publication of this document, companies that successfully complete a FA have twelve (12) months from the date of the FA Report to apply to transition into the ISA program. Requests to participate must be submitted to the Chief, Partnership Programs Branch, Office of International Trade, U.S. Customs and Border Protection, 1400 L Street, N.W., Washington, D.C. 20229-1143. Applications must include:

1. An ISA Memorandum of Understanding (MOU) listing the importer of record number(s) included in the FA and the MOU must be signed by an officer of the company; and
2. A written, risk-based, self-testing plan that should include: the risk assessment methodology used by the company; the testing methodology; the frequency of self-testing activities (i.e., monthly, quarterly, etc.); the number of sample items to be

tested; and the name and contact information for the person who will review the self-testing results. The self-testing process should be conducted at least annually.

([www.cbp.gov/xp/cgov/trade/trade\\_programs/importer\\_self\\_assessment/](http://www.cbp.gov/xp/cgov/trade/trade_programs/importer_self_assessment/)).

Once the company is accepted as a member of the ISA program, CBP will send the company an ISA certificate signed by the Assistant Commissioner, Office of International Trade, which indicates the date of acceptance into the program, an executed MOU, and a letter notifying it of its acceptance into the program.

### **Post-ISA Acceptance Requirements**

ISA participants are required to comply with the requirements noted in the ISA Handbook.

Companies that are transitioned into the ISA program will be required to submit an annual notification letter to CBP within thirty (30) days of their two year anniversary date of acceptance into the ISA program, which is the date that the Assistant Commissioner, Office of International Trade signs the ISA MOU. The annual notification letter is due every twelve (12) months thereafter. The annual notification letter is meant to ensure that the program participant continues to meet the requirements of the ISA program and to inform CBP of any business modifications that may have a potential impact on the company's customs operations. The annual notification letter must be in writing and addressed to the Chief, Partnership Programs Branch, Office of International Trade, U.S. Customs and Border Protection, 1400 L Street, N.W., Washington, D.C. 20229-1143. More information about the annual reporting requirements can be found in Appendix H of the ISA Handbook.

ISA participants will not be subject to any routine or periodic on-site reviews or audits, other than consultations with NAMs for support and compliance improvement purposes.

However, a participant may be subject to an on-site audit to address a specific issue related to an identified trade compliance risk.

### **Procedures for Discontinuance**

An ISA program participant may be subject to discontinuance from participation in the program for any of the following reasons:

- Failure to follow the terms of the MOU;
- Failure to exercise reasonable care in the execution of participant obligations under the program.; or
- Failure to abide by applicable laws and regulations.

If the Executive Director, Trade Policy and Programs (TPP), Office of International Trade believes that there is a basis for discontinuance of ISA program privileges, the ISA program participant will be provided a written notice proposing the discontinuance with a description of the facts or conduct warranting the action. The participant will be offered the opportunity to appeal the Executive Director's decision in writing within ten (10) calendar days of receipt of the written notice. The appeal must be submitted to the Assistant Commissioner, Office of International Trade, U.S. Customs and Border Protection, 1400 L Street, NW, Washington, D.C. 20229. The Assistant Commissioner, Office of International Trade, will issue a decision in writing on the proposed action within thirty (30) working days after receiving a timely filed appeal from the participant. If no timely appeal is received, the proposed notice becomes the final decision of the Agency as of the date that the appeal period expires. A proposed discontinuance of a participant's participation privileges will not take effect unless the appeal process under this paragraph has been concluded with a written decision adverse to the participant.

**Procedures for Immediate Discontinuance**

In the case of willfulness or those in which public health, interest, or safety so requires, the Executive Director, Trade Policy and Programs, Office of International Trade may immediately discontinue the participant's participation privileges upon written notice to the participant. The notice will contain a description of the facts or conduct warranting the immediate action. The participant will be offered the opportunity to appeal the Executive Director's decision within ten (10) calendar days of receipt of the written notice providing for immediate discontinuance. The appeal must be submitted to the Assistant Commissioner, Office of International Trade, U.S. Customs and Border Protection, 1400 L Street, NW, Washington, D.C. 20229. The immediate discontinuance will remain in effect during the appeal period. The Assistant Commissioner, Office of International Trade, will issue a decision in writing on the discontinuance within fifteen (15) working days after receiving a timely filed appeal from the participant. If no timely appeal is received, the notice becomes the final decision of the Agency as of the date that the appeal period expires.

Date: September 26, 2012

Allen Gina

Assistant Commissioner  
Office of International Trade

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